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August 31, 1995

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Chairman Reed E. Hundt  
Commissioner James H. Quello  
Commissioner Andrew C. Barrett  
Commissioner Rachelle B. Chong  
Commissioner Susan Ness  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

**RECEIVED**

**AUG 31 1995**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY**

Re: Review of the Syndication and Financial Interest Rules, Sections  
73.659-72.663 of the Commission's Rules, MM Docket No. 95-39

Dear Chairman Hundt and Commissioners:

On behalf of the Coalition to Preserve the Financial Interest and Syndication Rule, we are writing to express how deeply troubled we are by the Order issued on August 28, 1995 by the Chief of the Mass Media Bureau, granting the networks' request to suspend the filing of network ownership reports. Because we were not served with a copy of the networks' request, we were unable to file in opposition to the request. We are, however, unqualifiedly opposed to the request and to the Bureau's Order.

As the Order acknowledges, when the Commission imposed the reporting requirements it did so because "the data collected pursuant to these requirements should prove useful in conducting the scheduled review of the new finsyn regime . . . ."<sup>1</sup> The Commission has before it only four sets of reports, the most recent of which was filed six months ago. The current reports were due to be filed September 1, 1995.

Particularly in light of the Commission's stated purpose for imposing the reporting requirements, we are incredulous that the Commission -- which is on the verge

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<sup>1</sup> Order at 1, citing Second Report and Order in MM Docket No. 90-162, 8 FCC Rcd 3282, 3337 (1993).

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of deciding whether to eliminate the remaining finsyn restrictions -- does not wish to consider the most recent available data. The fact that the period for comments has closed imposes no limitation, of course, on the Commission's ability to review and analyze the data.

We can conceive of only two possible explanations for the Commission's indifference in this matter. The first is that the Commission simply does not care whether the data support (or belie) whatever judgment the Commission has tentatively reached. We find such an explanation extremely troubling, especially in light of the fact that there is *no evidence* that the predicted benefits of the Rule's relaxation have been realized. One can only assume that if the reports provided evidence supporting the Rule's repeal, the networks would be willing to bear the minor administrative burden of preparing them. In any event, we cannot believe that the Commission would decline to review material evidence when deciding whether to eliminate a long-standing rule, particularly when the public interest consequences of taking such an action are so uncertain.

Thus, we turn to the second explanation. We presume that the Commission has now discovered what we learned upon examining the reports that have been filed to date -- specifically, that the reporting requirements adopted in 1993 are sufficiently vague that the network reports reveal almost nothing of relevance to the Commission's inquiry. It is for this reason that the Coalition proposed that the Commission strengthen its reporting requirements and adopt a specific reporting form that the networks would be required to complete. That form, which we filed with our Reply Comments and is attached to this letter for your convenience, was endorsed by INTV as well.<sup>2</sup>

We reiterate here the point we made in our comments and reply comments. *Even if (indeed, especially if) the Commission eliminates the remaining restrictions, it should strengthen the reporting requirements so that interested parties and the Commission itself can later make an informed judgment as to whether the networks' predictions with respect to the effect of the Rule's elimination ever prove accurate.* As we explained in our Reply Comments:

The networks claim that they have no market power to abuse. If this is true, then they have no reason to object to reporting to the Commission information pertaining to their conduct in acquiring financial interests or syndication rights. Without this information, by

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<sup>2</sup> Reply Comments of The Association of Independent Television Stations, Inc. at 16 (June 14, 1995).

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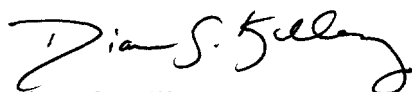
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contrast, the Commission will not be able to assess the accuracy of the networks' predictions and, more importantly, the actual impact of the Rule's further relaxation or elimination on the public. The relative costs and benefits of adopting strengthened reporting requirements, in short, weigh heavily in favor of requiring the networks to report meaningful information to the Commission.<sup>3</sup>

The public interest requires no less.

Respectfully submitted,



Diane S. Killory  
W. Stephen Smith

Counsel for the Coalition to Preserve the  
Financial Interest and Syndication Rule

cc: Roy Stewart, Esq.  
William Kennard, Esq.  
William A. Caton, Acting Secretary

Enclosure

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<sup>3</sup> Reply Comments of the Coalition to Preserve the Financial Interest and Syndication Rule at 37 (June 14, 1995) (citations omitted).

**FINANCIAL INTEREST AND SYNDICATION RULE  
REPORTING REQUIREMENTS FORM**

-A separate form must be filed for each prime time presentation, pilot, series, mini-series, special, made-for-TV movie or prototype that the network orders or airs.

-For network programs, a separate form must be filed each year the program airs on a network or network-affiliated station. For first-run programs, a separate form must be filed each year the program airs in syndication.

**NETWORK:**

**NAME OF PROGRAM:**

aka (if any):

1. Type of program distribution (check one):

☐ Network

If the program airs on another network, which one? \_\_\_\_\_

Date program began network run:

Date program ended network run (if applicable):

☐ First-Run

Date program first regularly exhibited or scheduled in syndication:

Date program stopped being distributed for first-run syndication (if applicable):

2. Length of presentation, pilot, prototype (check one):

☐ ½ hour

☐ 1 hour

☐ 2 hours

☐ other (please specify) \_\_\_\_\_

3. Length of series, mini-series, special, made-for-TV movie, if different from above (check one):

☐ ½ hour

☐ 1 hour

☐ 2 hours

☐ other (please specify) \_\_\_\_\_

4. Type of program (check one):  
☐ presentation  
☐ pilot  
☐ prototype episode as part of series order  
  
☐ series  
☐ mini-series  
☐ special  
☐ made-for-TV movie
5. Genre (check one):  
☐ sitcom  
☐ drama  
☐ news or news magazine  
☐ reality  
☐ sports  
☐ special  
☐ made-for-TV movie  
☐ mini-series  
☐ other (describe) \_\_\_\_\_
6. Production company of program (list all companies "credited"):
7. Copyright owner(s):
8. Executive producer(s) and credited writer(s) of program:
9. Were domestic distribution rights obtained by network?  
☐ yes  
☐ no
- a. Was there a separate amount or other consideration paid (*i.e.*, in addition to the license fee)?  
☐ yes  
☐ no  
If yes, please describe.

- b. Were the syndication rights retained by network or transferred to a third party?  
(check one)

☐ retained

☐ transferred to:

Independent syndicator (specify name and address):

Date of agreement under which independent syndicator obtained rights:

- c. List all network owned and operated stations and all affiliated stations that have obtained the program for exhibition "off-network" or in first-run syndication (for each station, identify station call sign, owner, market, and availability (*i.e.*, license period)).

10. Were foreign syndication rights obtained by network?

☐ yes

☐ no

- a. Was there a separate amount or other consideration paid (*i.e.*, in addition to the license fee)?

☐ yes

☐ no

If yes, please describe.

- b. Were the syndication rights retained or transferred to a third party? (check one)

☐ retained

☐ transferred to:

Independent syndicator (specify name and address):

Date of agreement under which independent syndicator obtained rights:

- c. List of all foreign markets (city and country) that have obtained the program for exhibition in syndication:

11. Did network obtain a financial interest?

☐ yes

☐ no

- a. Did network fully finance program "in house"?  
☐ yes  
☐ no
- b. If not, did independent production company fully finance program?  
☐ yes  
☐ no
- c. Was program financed by more than one entity?  
☐ yes  
☐ no  
 If yes, please list each entity's name (including the network, if applicable), address, and date of agreement.
- d. Was a separate amount or consideration paid by the network for the financial interest?  
☐ yes  
☐ no  
 If yes, please describe.
- e. Describe the financial interest required (including percent financial interest obtained):

12. Number of option years initially acquired by network:

For Fall start \_\_\_\_\_

For midseason start \_\_\_\_\_

Were additional option terms acquired? If so,

Date acquired:

Number acquired:

Consideration paid (describe):

13. Did the network or other agreement pertaining to distribution rights contain any restrictions on warehousing (including exclusivity on the network) or other controls over distribution?

☐ yes

☐ no

If yes, please describe.